

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

KERRY COX,

Plaintiff,

v.

**HOME DEPOT U.S.A Inc., and
JOHN DOE,**

Defendants.

MOSMAN, J.,

No. 3:13-cv-00587-HU

OPINION AND ORDER

On October 23, 2013, Magistrate Judge Hubel issued his Findings and Recommendation (“F&R”) [16] in the above-captioned case, recommending that Plaintiff’s Motion to Remand [8] and Motion to Substitute Named Defendant [10] be GRANTED. Defendant objected [19]. I heard further oral argument on the motions on January 21, 2014 [22].

The magistrate judge makes only recommendations to the court, to which any party may file written objections. I am not bound by the recommendations of the magistrate judge; instead, I retain responsibility for making the final determination. I am required to review de novo those portions of the report or any specified findings or recommendations within it to which an objection is made. 28 U.S.C. § 636(b)(1). However, I am not required to review, de novo or

under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether objections have been filed, in either case I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1).

Upon review, I agree with Judge Hubel's recommendation, and I ADOPT the F&R [16] as my own opinion. Plaintiff's motion to substitute William Evan Johnson as Defendant in place of John Doe [10] is GRANTED. The cause is remanded to Multnomah County Court.

IT IS SO ORDERED.

DATED this 22nd day of January, 2014.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Judge